



Plenary sitting

A8-0051/2018

1.3.2018

REPORT

on the proposal for a Council directive on a Common Consolidated Corporate
Tax Base (CCCTB)
(COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS))

Committee on Economic and Monetary Affairs

Rapporteur: Alain Lamassoure

Symbols for procedures

- * Consultation procedure
- *** Consent procedure
- ***I Ordinary legislative procedure (first reading)
- ***II Ordinary legislative procedure (second reading)
- ***III Ordinary legislative procedure (third reading)

(The type of procedure depends on the legal basis proposed by the draft act.)

Amendments to a draft act

Amendments by Parliament set out in two columns

Deletions are indicated in ***bold italics*** in the left-hand column. Replacements are indicated in ***bold italics*** in both columns. New text is indicated in ***bold italics*** in the right-hand column.

The first and second lines of the header of each amendment identify the relevant part of the draft act under consideration. If an amendment pertains to an existing act that the draft act is seeking to amend, the amendment heading includes a third line identifying the existing act and a fourth line identifying the provision in that act that Parliament wishes to amend.

Amendments by Parliament in the form of a consolidated text

New text is highlighted in ***bold italics***. Deletions are indicated using either the **■** symbol or ~~strikeout~~. Replacements are indicated by highlighting the new text in ***bold italics*** and by deleting or striking out the text that has been replaced.

By way of exception, purely technical changes made by the drafting departments in preparing the final text are not highlighted.

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DRAFT EUROPEAN PARLIAMENT LEGISLATIVE RESOLUTION

on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB)

(COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS))

(Special legislative procedure – consultation)

The European Parliament,

- having regard to the Commission proposal to the Council (COM(2016)0683),
 - having regard to Article 115 of the Treaty on the Functioning of the European Union, pursuant to which the Council consulted Parliament (C8-0471/2016),
 - having regard to the reasoned opinions submitted, within the framework of Protocol No 2 on the application of the principles of subsidiarity and proportionality, by the Danish Parliament, Dáil Éireann, Seanad Éireann, the Luxembourg Chamber of Representatives, the Maltese Parliament, the Netherlands Senate, the Netherlands House of Representatives and the Swedish Parliament, asserting that the draft legislative act does not comply with the principle of subsidiarity,
 - having regard to Rule 78c of its Rules of Procedure,
 - having regard to the report of the Committee on Economic and Monetary Affairs and the opinion of the Committee on Legal Affairs (A8-0051/2018),
1. Approves the Commission proposal as amended;
 2. Calls on the Commission to alter its proposal accordingly, in accordance with Article 293(2) of the Treaty on the Functioning of the European Union;
 3. Calls on the Council to notify Parliament if it intends to depart from the text approved by Parliament;
 4. Asks the Council to consult Parliament again if it intends to substantially amend the Commission proposal;
 5. Instructs its President to forward its position to the Council, the Commission and the national parliaments.

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

Amendment

(1) Companies which seek to do

(1) Companies which seek to do

business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they *both* create obstacles which impede the proper functioning of the internal market. *Action to rectify these problems* should therefore address *both* these types of market deficiencies.

business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. *In times of globalisation and digitalisation, taxation of in particular financial and intellectual capital on a source base is becoming increasingly harder to retrace and easier to manipulate.* Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. *The mainstream digitalisation of many sectors of the economy coupled with the fast developing digital economy calls into question the suitability of the Union corporate tax models designed for brick and mortar industries, including with regard to the extent that valuation and calculation criteria could be re-invented to reflect the commercial activities of the 21st century.* Although those situations highlight shortcomings that are completely different in nature, they *all* create obstacles which impede the proper functioning of the internal market *and give rise to distortions between large companies and small and medium-sized enterprises. A new standard for a corporate tax base for the Union* should therefore address *those* types of market deficiencies *while respecting the aims of long-term legal clarity and certainty and the principle of tax neutrality. More convergence between national tax systems will lead to a significant decrease in costs and administrative burden for businesses operating cross-border within the Union. While taxation policy is a national competence, Article 115 of the Treaty on the Functioning of the European Union clearly stipulates that the Council should, acting unanimously in accordance with a special legislative procedure and after*

consulting the European Parliament and the Economic and Social Committee, issue directives for the approximation of such taxation laws, regulations or administrative provisions of the Member States as directly affect the establishment or functioning of the internal market.

Amendment 2

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) To support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated. It is therefore necessary to provide for mechanisms that discourage companies from taking advantage of mismatches amongst national tax systems in order to lower their tax liability. It is equally important to also stimulate growth and economic development in the internal market by facilitating cross-border trade and corporate investment. To this end, it is necessary to eliminate both double taxation and double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems. At the same time, companies need an easily workable tax and legal framework for developing their commercial activity and expanding it across borders in the Union. In that context, remaining cases of discrimination should also be removed.

Amendment

(2) To support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated ***and where companies have permanent establishment. Taking into account the digital change in the business environment, it is necessary to ensure that companies which generate revenues in a Member State without having a physical permanent establishment but having a digital permanent establishment in that Member State should be treated in the same way as companies having a physical permanent establishment.*** It is therefore necessary to provide for mechanisms that discourage companies from taking advantage of mismatches amongst national tax systems in order to lower their tax liability. It is equally important to also stimulate growth and economic development in the internal market by facilitating cross-border trade and corporate investment. To this end, it is necessary to eliminate both double taxation and double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems. At the same time, companies need an easily workable tax and legal framework for developing their

commercial activity and expanding it across borders in the Union. In that context, remaining cases of discrimination should also be removed. ***Consolidation is an essential element of the CCCTB system, since the major tax obstacles faced by companies of the same group that operate cross-border in the Union can only be tackled in that way. Consolidation eliminates transfer pricing formalities and intra-group double taxation.***

Amendment 3

Proposal for a directive

Recital 3

Text proposed by the Commission

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address, on an equal footing, both the aspect of business facilitation and the initiative's function in countering tax avoidance. Such an approach would best serve the aim of eradicating distortions in the functioning of

Amendment

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)⁷, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive location for investment internationally ***especially for small and medium-sized enterprises***. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address, on an equal footing, both the aspect of business facilitation and the initiative's function in countering tax avoidance. ***Once implemented in all Member States, a CCCTB would ensure that taxes are paid***

the internal market.

where profits are generated and where companies have permanent establishment. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market. ***Improving the internal market is a key factor for encouraging growth and job creation. The introduction of a CCCTB would improve economic growth and result in more jobs in the Union by reducing harmful tax competition between companies.***

⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

⁷ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Amendment 4

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is ***necessary to divide the ambitious CCCTB initiative into two separate proposals. At a first stage, rules on a common corporate tax base should be agreed, before addressing, at a second stage, the issue of consolidation.***

Amendment

(4) Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is ***very important to ensure simultaneous entry into force of the Directive on a Common Corporate Tax Base and the Directive on a Common Consolidated Corporate Tax Base. Because such a change of regime is a significant step in the completion of the internal market, it needs flexibility in order to be properly executed from the outset. Hence, as the internal market encompasses all Member States, the CCCTB should be introduced in all Member States. If the Council fails to adopt a unanimous decision on the proposal to establish a CCCTB, the Commission should issue a new proposal based on Article 116 of the Treaty on the Functioning of the European Union,***

whereby the European Parliament and the Council act in accordance with the ordinary legislative procedure to issue the necessary legislation. As a last resort, an enhanced cooperation should be initiated by Member States which should be open at any time to non-participating Member States in accordance with the Treaty on the Functioning of the European Union. It is regrettable, however, that no sufficiently detailed assessment has been conducted in respect of either the CCTB or CCCTB proposals in terms of the impact on Member States' corporate tax revenue on a country-by-country basis.

Amendment 5

Proposal for a directive Recital 5

Text proposed by the Commission

(5) Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a **CCCTB** should be mandatory only for **groups of** companies of a substantial size. For that purpose, a size-related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. ***In addition***, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a **CCCTB** should also be available, as an option, to ***those groups that fall short of the size-related threshold.***

Amendment

(5) Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a **common base** should be mandatory ***initially*** only for companies ***which belong to a group*** of a substantial size. For that purpose, a size-related ***starting*** threshold of ***EUR 750 million*** should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements. ***Since this Directive sets a new standard for the corporate tax base for all businesses in the Union, the threshold should be lowered to zero over a maximum period of seven years.*** In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a **common corporate tax base** should also be available ***in the first phase***, as an option, to ***companies which do not meet those criteria.***

Amendment 6

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) All things being equal the switch to a common consolidated corporate tax base could result in losses or gains of fiscal revenues for Member States. In order to compensate losses, a temporary compensation mechanism should be created, financed by the fiscal surplus from those Member States that experience gains in fiscal revenue due to the new regime. Compensation should be adjusted each year to take into account national or regional decisions taken prior to the entry into force of this Directive. The Commission should be required to propose the removal or the change of the compensation system after a period of seven years, and to set the ceilings for compensation.

Amendment 7

Proposal for a directive Recital 5 b (new)

Text proposed by the Commission

Amendment

(5b) In order to avoid the existing allocation of the tax burden between small and medium-sized enterprises (SMEs) and multinational corporations as mentioned in the European Parliament resolution of 25 November 2015 on tax rulings and other measures similar in nature or effect, a common corporate tax base has the aim of not putting SMEs at a competitive disadvantage, thereby creating a level playing field for them. The principal tax authority can provide SMEs with the necessary tools to help

them to comply with the administrative and organisational requirements that an opt-in to the CCCTB entails.

Amendment 8

Proposal for a directive Recital 6

Text proposed by the Commission

(6) Eligibility for the consolidated tax group should be determined in accordance with a two-part test based on (i) control (more than 50 percent of voting rights) and (ii) ownership (more than 75 percent of equity) or rights to profits (more than 75 percent of rights giving entitlement to profit). Such a test would ensure a high level of economic integration between group members. To guarantee the integrity of the system, the two thresholds for control and ownership or profit rights should be met throughout the tax year; otherwise, the failing company should leave the group immediately. To prevent a manipulation of the tax results through companies entering and leaving the group within a short-term, there should also be a minimum requirement of nine consecutive months for establishing group membership.

Amendment

(6) It is necessary to define the concept of a permanent establishment situated in the Union and belonging to a taxpayer who is resident for tax purposes within the Union. Too often, multinational companies make arrangements to transfer their profits to favourable tax regimes without paying any tax or paying very low rates of tax. The concept of a permanent establishment would provide a precise, binding definition of the criteria to be met if a multinational company is to prove that it is situated in a given country. That will compel multinational companies to pay their taxes fairly. The aim would be to ensure that all concerned taxpayers share a common understanding and to exclude the possibility of a mismatch due to divergent definitions. Similarly, it is important to have a common definition of permanent establishments situated in a third country, or in the Union but belonging to a taxpayer who is resident for tax purposes in a third country. If transfer pricing gives rise to profit shifting into a low tax jurisdiction, a system that awards profit via a formula apportionment is preferable. The Union can establish an international standard for modern and efficient corporate taxation by adopting such a system. The Commission should draft guidelines for the transitional phase in which formulary apportionment coexists with other allocation methods in dealing with third countries, while ultimately formulary

apportionment should be the standard method of allocation. The Commission should make a proposal to set up a Union model of a tax treaty which could ultimately replace the thousands of bilateral treaties concluded by each of the Member States.

Amendment 9

Proposal for a directive Recital 6 a (new)

Text proposed by the Commission

Amendment

(6a) Digital goods tend to be highly mobile and intangible. Studies have shown that the digital sector is highly involved in aggressive tax planning practices, since many business models do not require physical infrastructure in order to carry out transactions with customers and make profits. That allows the biggest digital companies to pay taxes of close to zero on their revenue. The treasuries of the Member States lose billions of euros in tax revenues from not being able to tax digital multinationals. To tackle that real and urgent social injustice, current corporate tax law needs to be expanded to include a new digital permanent establishment nexus based on a significant digital presence. A level-playing field is needed for similar business models to address the tax challenges that arise from the context of digitalisation, without hampering the potential of the digital sector. Particular account should be taken in that respect connection of the work carried out by the OECD on an internationally consistent set of rules.

Amendment 10

Proposal for a directive Recital 10

Text proposed by the Commission

(10) The formula apportionment for the consolidated tax base should comprise **three** equally weighted factors, namely labour, assets **and** sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise **all fixed** tangible assets, **but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented**. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

Amendment 11

**Proposal for a directive
Recital 10 a (new)**

Text proposed by the Commission

Amendment

(10) The formula apportionment for the consolidated tax base should comprise **four** equally weighted factors, namely labour, assets, sales by destination, **and collection and use of personal data of online platforms and services users (the latter referred to herein as the ‘data factor’)**. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should **only** comprise tangible assets. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

Amendment

(10a) The formula for the apportionment of the consolidated tax base needs to fully reflect the economic

activity that has taken place in each Member State, by duly taking full account of potential significant differences between their economies. Where the formula results in an imbalanced apportionment that fails to reflect the economic activity, a dispute resolution mechanism could remedy such a situation. In light of the foregoing, the Commission should assess the possible establishment of a dispute resolution mechanism in order to ensure the proper resolution of disputes when different Member States are involved.

Amendment 12

Proposal for a directive Recital 11

Text proposed by the Commission

(11) Due to their specificities, certain sectors, such as the financial and insurance sector, the oil and gas sector as well as shipping and air transport, need an adjusted formula for the apportionment of the consolidated tax base.

Amendment

deleted

Amendment 13

Proposal for a directive Recital 14

Text proposed by the Commission

(14) This Directive builds upon Council Directive 2016/xx/EU on a common corporate tax base (which lays down a common set of corporate tax rules for computing the tax base) and focusses on the consolidation of tax results across the group. It *would* thus *be* necessary to deal with the interaction between the two legislative instruments and cater for the transition of certain elements of the tax

Amendment

(14) This Directive builds upon Council Directive 2016/xx/EU on a common corporate tax base (which lays down a common set of corporate tax rules for computing the tax base) and focusses on the consolidation of tax results across the group. It *is* thus necessary to deal with the interaction between the two legislative instruments and cater for the transition of certain elements of the tax base into the

base into the new framework of the group. Such elements should include, in particular, the interest limitation rule, the switch-over clause and controlled foreign company legislation as well as hybrid mismatches.

new framework of the group. Such elements should include, in particular, the interest limitation rule, the switch-over clause and controlled foreign company legislation as well as hybrid mismatches. ***Member States should not be prevented from introducing additional anti-tax avoidance measures in order to reduce the negative effects of shifting profits to low-tax countries outside the Union.***

Amendment 14

Proposal for a directive

Recital 16

Text proposed by the Commission

(16) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; (ii) laying down additional definitions; and (iii) supplementing the rule on the limitation of interest deductibility with anti-fragmentation rules, to better address the tax avoidance risks which may emerge within a group. It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level. The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and the Council.

Amendment

(16) In order to supplement or amend certain non-essential elements of this Directive, the power to adopt acts in accordance with Article 290 of the Treaty on the Functioning of the European Union should be delegated to the Commission with respect of (i) taking into account changes to the laws of Member States concerning the company forms and corporate taxes and amend Annexes I and II accordingly; (ii) laying down additional definitions; and (iii) supplementing the rule on the limitation of interest deductibility with anti-fragmentation rules, to better address the tax avoidance risks which may emerge within a group ***and (iv) issuing guidelines for the transitional phase in which formulary apportionment coexists with other allocation methods in dealing with third countries.*** It is of particular importance that the Commission carry out appropriate consultations during its preparatory work, including at expert level ***and should take into account the European Parliament's annual resolution.*** The Commission, when preparing and drawing up delegated acts, should ensure a simultaneous, timely and appropriate transmission of relevant documents to the European Parliament and

the Council.

Amendment 15

Proposal for a directive

Recital 17

Text proposed by the Commission

(17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission (i) to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I; (ii) to lay down detailed rules on the calculation of the labour, asset **and sales** factors, the allocation of employees and payroll, assets and sales to the respective factor and the valuation of assets; (iii) to adopt an act establishing a standard form of the notice to create a group; and (iv) to lay down rules on the electronic filing of the consolidated tax return, the form of the consolidated tax return, the form of the single taxpayer's tax return and the supporting documentation required. Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment

(17) In order to ensure uniform conditions for the implementation of this Directive, implementing powers should be conferred on the Commission (i) to adopt annually a list of third country company forms that are similar to the company forms listed in Annex I; (ii) to lay down detailed rules on the calculation of the labour, asset **and sales factors and the data** factor, the allocation of employees and payroll, **the allocation of collected personal data and exploited personal data**, assets and sales to the respective factor and the valuation of assets; (iii) to adopt an act establishing a standard form of the notice to create a group; and (iv) to lay down rules on the electronic filing of the consolidated tax return, the form of the consolidated tax return, the form of the single taxpayer's tax return and the supporting documentation required. **The Commission should design those uniform tax return formats in cooperation with the tax administrations of the Member States.** Those powers should be exercised in accordance with Regulation (EU) No 182/2011 of the European Parliament and of the Council¹².

¹² Regulation (EU) No 182/2011 of the European Parliament and of the Council of 16 February 2011 laying down the rules and general principles concerning mechanisms for control by Member States of the Commission's exercise of implementing powers (OJ L 55, 28.2.2011, p. 13).

Amendment 16

Proposal for a directive

Recital 18

Text proposed by the Commission

(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is limited to groups beyond a certain size.

Amendment

(18) Since the objectives of this Directive, namely to improve the functioning of the internal market through countering practices of international tax avoidance and to facilitate businesses, ***in particular SMEs***, in expanding across borders within the Union, cannot be sufficiently achieved by the Member States acting individually and in a disparate fashion because coordinated action is necessary to obtain these objectives, but can rather, by reason of the fact that the Directive targets inefficiencies of the internal market that originate in the interaction between disparate national tax rules which impact on the internal market and discourage cross-border activity, be better achieved at Union level, the Union may adopt measures, in accordance with the principle of subsidiarity as set out in Article 5 of the Treaty on European Union. In accordance with the principle of proportionality, as set out in that Article, this Directive does not go beyond what is necessary in order to achieve those objectives, especially considering that its mandatory scope is limited to groups beyond a certain size.

Amendment 17

Proposal for a directive

Recital 20

Text proposed by the Commission

(20) The Commission should be required to ***review*** the application of the Directive five years after its entry into

Amendment

(20) ***Since this Directive contains an important change to corporate taxation rules***, the Commission should be required

force and report to Council on its operation. Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

to ***conduct a thorough assessment*** of the application of the Directive five years after its entry into force and report to ***the European Parliament and the Council*** on its operation. ***That implementation report should include at least the following points: the impact of the system of taxation provided for in this Directive on Member States revenues, the advantages and disadvantages of the system for small and medium-sized enterprises, the impact on a fair tax collection between Member States, the impact on the internal market as a whole, with particular regard to possible distortion of competition between companies subject to the new rules laid down in this Directive, and the number of undertakings that fall within the scope during the transition period. The Commission should be required to review the application of the Directive 10 years after its entry into force and report to the European Parliament and the Council on its operation.*** Member States should be required to communicate to the Commission the text of the provisions of national law which they adopt in the field covered by this Directive,

Amendment 18

Proposal for a directive Recital 20 a (new)

Text proposed by the Commission

Amendment

(20a) In order to achieve a full and consistent consolidation and prevent new opportunities for arbitrage arising from accounting inconsistencies between Member States, it is necessary to adopt clear, consistent and objective criteria for calculating the consolidated tax base. To that end, the Commission should propose the necessary adjustments to the relevant provisions of this Directive concerning the definition and calculation of the

consolidated tax base.

Amendment 19

Proposal for a directive Recital 20 b (new)

Text proposed by the Commission

Amendment

(20b) The Commission should consider additional studies that analyse the potential impact of the CCCTB on the corporate tax revenues of individual Member States, and potential competitive disadvantages for the Union in relation to third countries.

Amendment 20

Proposal for a directive Article 1 – paragraph 1

Text proposed by the Commission

Amendment

1. This Directive establishes a system ***for the consolidation of the tax bases, as referred to in Council Directive 2016/xx/EU¹⁴, of companies that are members of a group*** and lays down rules ***on how a common consolidated corporate tax base shall be allocated to Member States and administered by the national tax authorities.***

1. This Directive establishes a ***common base for the taxation in the Union of certain*** companies and lays down rules ***for the calculation of that base, including rules on measures to prevent tax avoidance and on measures relating to the international dimension of the proposed tax system.***

¹⁴ [full title of the Directive (OJ L [], [], p. [])].

Amendment 21

Proposal for a directive Article 2 – paragraph 1 – introductory part

Text proposed by the Commission

Amendment

1. The rules of this Directive shall

1. The rules of this Directive shall

apply to a company that is established under the laws of a Member State, including its permanent establishments in other Member States, where the company meets all of the following conditions:

apply to a company that is established under the laws of a Member State, including its permanent **and digital permanent** establishments in other Member States, where the company meets all of the following conditions:

Amendment 22

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 000 000 during the financial year preceding the relevant financial year;

Amendment

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR 750 000 000 during the financial year preceding the relevant financial year. ***That threshold shall be lowered to zero over a maximum period of seven years;***

Amendment 23

Proposal for a directive

Article 2 – paragraph 3

Text proposed by the Commission

3. A company that meets the conditions of points (a), (b) and (d) of paragraph 1, but does not meet the conditions of point (c) of that paragraph, may opt, including for its permanent establishments situated in other Member States, to apply the rules of this Directive ***for a period of five tax years. That period shall automatically be extended for successive terms of five tax years, unless there is a notice of termination as referred to in the second subparagraph of Article 47. The conditions under points (a), (b) and (d) of paragraph 1 shall be met each time the extension takes place.***

Amendment

3. A company that meets the conditions of points (a), (b) and (d) of paragraph 1, but does not meet the conditions of point (c) of that paragraph, may opt, including for its permanent establishments situated in other Member States, to apply the rules of this Directive.

Amendment 24

Proposal for a directive Article 2 – paragraph 4

Text proposed by the Commission

4. The rules of this Directive shall not apply to a shipping company under a special tax regime. A shipping company under a special tax regime shall be taken into account for the purpose of determining the companies which are members of the same group as referred to in Articles 5 and 6.

Amendment

deleted

Amendment 25

Proposal for a directive Article 3 – paragraph 1 – point 23

Text proposed by the Commission

(23) 'consolidated tax base' means the **result of adding up the tax bases** of all group members, as calculated in accordance with Directive 2016/xx/EU;

Amendment

(23) 'consolidated tax base' means the **consolidated net taxable revenue** of the group members, as calculated **on a consistent accounting basis applicable to all group members** in accordance with Directive 2016/xx/EU;

Amendment 26

Proposal for a directive Article 3 – paragraph 1 – point 28 a (new)

Text proposed by the Commission

Amendment

(28a) 'data factor' means the collection and exploitation for commercial purposes of personal data of online platforms and services users in one or more Member States.

Amendment 27

Proposal for a directive Article 4 – paragraph 3

Text proposed by the Commission

3. *Where the place of effective management of a group member engaged in shipping or in inland waterways transport is aboard a ship or boat, the group member shall be considered to be resident for tax purposes in the Member State of the home harbour of the ship or boat, or, where there is no such home harbour, in the Member State of residence for tax purposes of the operator of the ship or boat.*

Amendment

deleted

Amendment 28

Proposal for a directive Article 4 – paragraph 4

Text proposed by the Commission

4. A resident taxpayer shall be subject to corporate tax on all income ***derived from any source***, whether inside or outside the Member State where it is resident for tax purposes.

Amendment

4. A resident taxpayer shall be subject to corporate tax on all income ***generated by any activity***, whether inside or outside the Member State where it is resident for tax purposes.

Amendment 29

Proposal for a directive Article 4 – paragraph 5

Text proposed by the Commission

5. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment in a Member State.

Amendment

5. A non-resident taxpayer shall be subject to corporate tax on all income from an activity carried on through a permanent establishment, ***including through a digital permanent establishment***, in a Member State. ***A digital permanent establishment of a taxpayer shall be determined in accordance with the conditions and***

criteria listed in Article 5 of Council Directive ... on a Common Corporate Tax Base^{1a}.

^{1a} Council Directive ... on a Common Corporate Tax Base (OJ L ..., ..., p. ...).

Amendment 30

Proposal for a directive Article 5 – paragraph 1 – point a

Text proposed by the Commission

(a) it has a right to exercise *more than* 50 % *of the voting rights*; and

Amendment

(a) it has a right to exercise *voting rights exceeding* 50 %; and

Amendment 31

Proposal for a directive Article 6 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. Permanent establishments shall include digital permanent establishments in accordance with the conditions and criteria listed in Article 5 of Council Directive ... on a Common Corporate Tax Base^{1a}.

^{1a} Council Directive ... on a Common Corporate Tax Base (OJ L ..., ..., p. ...).

Amendment 32

Proposal for a directive Article 7 – paragraph 1

Text proposed by the Commission

1. The tax *bases of all members of a group shall be added together into a consolidated tax base.*

Amendment

1. The tax *basis of a consolidated group shall be determined as if it were one single entity. For that purpose, the*

aggregate tax basis of the group shall be retreated in order to eliminate all profits or losses including those arising from any transaction, whatever its nature, between two or more entities within the group.

Amendment 33

Proposal for a directive Article 7 – paragraph 2

Text proposed by the Commission

2. Where the consolidated tax base is negative, the loss shall be carried forward and be set off against the next positive consolidated tax base. Where the consolidated tax base is positive, it shall be apportioned in accordance with Chapter VIII.

Amendment

2. Where the consolidated tax base is negative, the loss shall be carried forward and be set off against the next positive consolidated tax base ***for a maximum period of five years***. Where the consolidated tax base is positive, it shall be apportioned in accordance with Chapter VIII.

Amendment 34

Proposal for a directive Article 9 – paragraph 2

Text proposed by the Commission

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. Groups may change the method only for valid commercial reasons and only at the beginning of a tax year.

Amendment

2. Groups shall apply a consistent and adequately documented method for recording intra-group transactions. Groups may change the method only for valid commercial reasons and only at the beginning of a tax year. ***All such transactions shall be eliminated from the tax base as a result of the consolidation carried out pursuant to Article 7(1).***

Amendment 35

Proposal for a directive Article 9 – paragraph 3

Text proposed by the Commission

Amendment

3. The method for recording intra-group transactions shall enable all intra-group transfers and sales to be identified at the lowest cost for assets not subject to depreciation or the value for tax purposes for depreciable assets.

deleted

Amendment 36

Proposal for a directive Article 9 – paragraph 4

Text proposed by the Commission

Amendment

4. Intra-group transfers shall not change the status of self-generated intangible assets.

deleted

Amendment 37

Proposal for a directive Article 23 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Amendment

Where, as a result of a business reorganisation, one or more groups, or two or more group members, become part of another group, any unrelieved losses of the previously existing group or groups shall be allocated to each of the group members in accordance with Chapter VIII and on the basis of the factors as they stand at the end of the tax year in which the business reorganisation takes place. Unrelieved losses of the previously existing group or groups shall be carried forward ***for future*** years.

Where, as a result of a business reorganisation, one or more groups, or two or more group members, become part of another group, any unrelieved losses of the previously existing group or groups shall be allocated to each of the group members in accordance with Chapter VIII and on the basis of the factors as they stand at the end of the tax year in which the business reorganisation takes place. Unrelieved losses of the previously existing group or groups shall be carried forward ***for a maximum period of five*** years.

Amendment 38

Proposal for a directive Article 23 – paragraph 2

Text proposed by the Commission

2. Where two or more principal taxpayers merge within the meaning of points (i) and (ii) of Article 2(a) of Council Directive 2009/133/EC¹⁵, any unrelieved losses of a group shall be allocated to its members in accordance with Chapter VIII, on the basis of the factors as they stand at the end of the tax year in which the merger takes place. Unrelieved losses shall be carried forward *for future* years.

¹⁵ Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34).

Amendment

2. Where two or more principal taxpayers merge within the meaning of points (i) and (ii) of Article 2(a) of Council Directive 2009/133/EC¹⁵, any unrelieved losses of a group shall be allocated to its members in accordance with Chapter VIII, on the basis of the factors as they stand at the end of the tax year in which the merger takes place. Unrelieved losses shall be carried forward *for a maximum period of five* years.

¹⁵ Council Directive 2009/133/EC of 19 October 2009 on the common system of taxation applicable to mergers, divisions, partial divisions, transfers of assets and exchanges of shares concerning companies of different Member States and to the transfer of the registered office of an SE or SCE between Member States (OJ L 310, 25.11.2009, p. 34).

Amendment 39

**Proposal for a directive
Article 28 – paragraph 1 – subparagraph 1**

Text proposed by the Commission

The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. In determining the apportioned share of a group member A, the formula shall take the following form, giving equal weight to the factors of sales, labour *and* assets:

Amendment 40

Proposal for a directive

Amendment

The consolidated tax base shall be shared between the group members in each tax year on the basis of a formula for apportionment. In determining the apportioned share of a group member A, the formula shall take the following form, giving equal weight to the factors of sales, labour, assets *and the data factor*:

Article 28 – paragraph 1 – formula

Text proposed by the Commission

$$\text{Share A} = \left(\frac{1}{3} \frac{\text{Sales}^A}{\text{Sales}^{\text{Group}}} + \frac{1}{3} \left(\frac{1}{2} \frac{\text{Payroll}^A}{\text{Payroll}^{\text{Group}}} + \frac{1}{2} \frac{\text{No of employees}^A}{\text{No of employees}^{\text{Group}}} \right) + \frac{1}{3} \frac{\text{Assets}^A}{\text{Assets}^{\text{Group}}} \right) * \text{Con'd Tax Base}$$

Amendment

$$\text{Share A} = \left(\frac{1}{4} \frac{\text{Sales}^A}{\text{Sales}^{\text{Group}}} + \frac{1}{4} \left(\frac{1}{2} \frac{\text{Payroll}^A}{\text{Payroll}^{\text{Group}}} + \frac{1}{2} \frac{\text{No of employees}^A}{\text{No of employees}^{\text{Group}}} \right) + \frac{1}{4} \frac{\text{Assets}^A}{\text{Assets}^{\text{Group}}} \right. \\ \left. + \frac{1}{4} \left(\frac{1}{2} \frac{\text{Data collected}^A}{\text{Data collected}^{\text{Group}}} + \frac{1}{2} \frac{\text{Data exploited}^A}{\text{Data exploited}^{\text{Group}}} \right) \right) \\ * \text{Con'd Tax Base}$$

Amendment 41

Proposal for a directive

Article 28 – paragraph 1 – subparagraph 1 a (new)

Text proposed by the Commission

Amendment

Where one or more factors do not apply due to the nature of a taxpayer's activities, all other applicable factors should be proportionally re-weighted in the formula in order to maintain an absolute equal weight given to each applicable factor.

Amendment 42

Proposal for a directive

Article 28 – paragraph 5

Text proposed by the Commission

Amendment

5. When determining the apportioned share of a group member, equal weight shall be given to the factors of sales, labour ***and*** assets.

5. When determining the apportioned share of a group member, equal weight shall be given to the factors of sales, labour, assets ***and the data factor.***

Amendment 43

Proposal for a directive Article 28 – paragraph 5 a (new)

Text proposed by the Commission

Amendment

5a. One half of the data factor shall consist of the total volume of personal data of online platform and services users collected per Member State by a group member as its numerator and the total volume of personal data of online platforms and services users collected per Member State by the group as its denominator, and the other half of the data factor shall consist of the total volume of personal data of online platforms and services users exploited per Member State by a group member as its numerator and the total volume of personal data of online platforms and services users exploited per Member State by the group as its denominator.

Amendment 44

Proposal for a directive Article 28 – paragraph 5 b (new)

Text proposed by the Commission

Amendment

5b. The volume of personal data collected pursuant to the data factor shall be measured at the end of the tax year in each Member State.

Amendment 45

Proposal for a directive Article 28 – paragraph 5 c (new)

Text proposed by the Commission

Amendment

5c. The definition of the collection and exploitation for commercial purposes of personal data in the context of the data

factor shall be determined in accordance with Regulation 2016/679/EU.

Amendment 46

Proposal for a directive

Article 29

Text proposed by the Commission

Amendment

Article 29

deleted

Safeguard clause

As an exception to the rule set out in Article 28, if the principal taxpayer or a competent authority considers that the outcome of the apportionment of the consolidated tax base to a group member does not fairly represent the extent of the business activity of that group member, the principal taxpayer or competent authority may request the use of an alternative method for calculating the tax share of each group member. An alternative method can be used only if, following consultations among the competent authorities and, where applicable, discussions held in accordance with Articles 77 and 78, all these authorities agree to that alternative method. The Member State of the principal tax authority shall inform the Commission about the alternative method used.

Amendment 47

Proposal for a directive

Article 38 – paragraph 1

Text proposed by the Commission

Amendment

1. Sales of goods shall be included in the sales factor of the group member located in the Member State where the dispatch or transport of the goods to the person acquiring them ends. Where that

1. Sales of goods shall be included in the sales factor of the group member located in the Member State where the dispatch or transport of the goods to the person acquiring them ends. Where that

place cannot be determined, the sales of goods shall be attributed to the group member located in the Member State of the last identifiable location of the goods.

place cannot be determined ***or the group member has no taxable nexus***, the sales of goods shall be attributed to the group member located in the Member State of the last identifiable location of the goods.

Amendment 48

Proposal for a directive Article 43

Text proposed by the Commission

Amendment

Article 43

deleted

Shipping, inland waterways transport and air transport

The revenues, expenses and other deductible items of a group member whose principal business is the operation of ships or aircraft in international traffic or the operation of boats engaged in inland waterways transport shall be excluded from the consolidated tax base and not be apportioned in accordance with the rules laid down in Article 28. Instead, those revenues, expenses and other deductible items shall be attributed to that group member on a transaction-by-transaction basis and be subject to adjustments for pricing in accordance with Article 56 of Directive 2016/xx/EU.

Participations in and by the group member shall be taken into account for the purpose of determining whether there is a group as referred to in Articles 5 and 6.

Amendment 49

Proposal for a directive Article 46 – paragraph 2

Text proposed by the Commission

Amendment

2. The notice referred to in paragraph

2. The notice referred to in paragraph

1 shall cover all group members, *except for the shipping companies referred to in Article 2(4)*.

1 shall cover all group members.

Amendment 50

Proposal for a directive Article 48 – paragraph 2

Text proposed by the Commission

The Commission *may* adopt an act establishing a standard form of the notice to create a group. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Amendment

The Commission *shall* adopt an act establishing a standard form of the notice to create a group. That implementing act shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Amendment 51

Proposal for a directive Article 55 – paragraph 1

Text proposed by the Commission

The Commission *may* adopt acts laying down rules on the electronic filing of the consolidated tax return, on the form of the consolidated tax return, on the form of the single taxpayer's tax return and on the supporting documentation required. Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Amendment

The Commission *shall* adopt acts laying down rules on the electronic filing of the consolidated tax return, on the form of the consolidated tax return, on the form of the single taxpayer's tax return and on the supporting documentation required. *The Commission shall design those uniform tax return formats in cooperation with the tax administrations of the Member States.* Those implementing acts shall be adopted in accordance with the examination procedure referred to in Article 77(2).

Amendment 52

Proposal for a directive Article 65 – paragraph 1

Text proposed by the Commission

1. Where the competent authority of

Amendment

1. Where the competent authority of

the Member State in which a group member is resident for tax purposes or situated in the form of a permanent establishment disagrees with a decision of the principal tax authority made pursuant to Articles 49 or 56(2) or (4) or the second subparagraph of Article 56(5) may challenge that decision before the courts of the Member State of the principal tax authority within a period of three months.

the Member State in which a group member is resident for tax purposes or situated in the form of a permanent establishment, ***including in the form of a digital permanent establishment***, disagrees with a decision of the principal tax authority made pursuant to Articles 49 or 56(2) or (4) or the second subparagraph of Article 56(5) may challenge that decision before the courts of the Member State of the principal tax authority within a period of three months.

Amendment 53

Proposal for a directive Article 65 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. The Commission shall analyse whether the establishment of a dispute resolution mechanism would further increase the effectiveness and efficiency of the settlement of disagreements between Member States. The Commission shall submit a report thereon to the European Parliament and the Council, including, if appropriate, a legislative proposal.

Amendment 54

Proposal for a directive Article 67 – paragraph 1

Text proposed by the Commission

Amendment

1. Appeals against amended tax assessments or tax assessments made pursuant to Article 54 shall be heard by an administrative body that according to the law of the Member State of the principal tax authority is competent to hear appeals at first instance. That administrative body shall be independent from the tax authorities in the Member State of the

1. Appeals against amended tax assessments or tax assessments made pursuant to Article 54 shall be heard by an administrative body that according to the law of the Member State of the principal tax authority is competent to hear appeals at first instance. That administrative body shall be independent from the tax authorities in the Member State of the

principal tax authority. Where there is no such administrative body in that Member State, the principal taxpayer may lodge a judicial appeal directly.

principal tax authority. Where there is no such administrative body in that Member State, *or where the principal taxpayer prefers to do so*, the principal taxpayer may lodge a judicial appeal directly.

Amendment 55

Proposal for a directive Article 67 – paragraph 5

Text proposed by the Commission

5. The administrative body referred to in paragraph 1 shall decide on the appeal within six months. If no decision is received by the principal taxpayer within that period, the decision of the principal tax authority shall be deemed to have been confirmed.

Amendment

5. *If seized of an appeal*, the administrative body referred to in paragraph 1 shall decide on the appeal within six months. If no decision is received by the principal taxpayer within that period, the decision of the principal tax authority shall be deemed to have been confirmed.

Amendment 56

Proposal for a directive Article 69 – paragraph 2

Text proposed by the Commission

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group and comprise the results of all group members. The amount of EUR **3 000 000** referred to in Article 13 of Directive 2016/xx/EU shall be increased to 5 000 000.

Amendment

2. Where paragraph 1 applies, the exceeding borrowing costs and EBITDA shall be calculated at the level of the group and comprise the results of all group members. The amount of EUR **1 000 000** referred to in Article 13 of Directive 2016/xx/EU shall be increased to 5 000 000.

Amendment 57

Proposal for a directive Article 71

Text proposed by the Commission

Amendment

Article 71

deleted

Loss relief and recapture

1. Article 41 of Directive 2016/xx/EU on loss relief and recapture shall automatically cease to apply when this Directive comes into force.

2. Transferred losses which have not yet been recaptured when this Directive enters into force shall remain with the taxpayer to which they have been transferred.

Amendment 58

**Proposal for a directive
Article 72 – paragraph 1**

Text proposed by the Commission

Amendment

For the purposes of this Directive, the **reference to the statutory corporate tax rate that the taxpayer would have been subject to in the first subparagraph of Article 53(1) of Directive 2016/xx/EU shall not apply and shall be replaced by the average statutory corporate tax rate applicable amongst all Member States instead.**

For the purposes of this Directive, the **switch-over rules laid down in Article 53 of Directive 2016/xx/EU shall apply.**

Amendment 59

**Proposal for a directive
Article 73 – paragraph 1**

Text proposed by the Commission

Amendment

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments that are situated, in a third

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments, **including digital**

country.

permanent establishments, that are situated in a third country.

Amendment 60

Proposal for a directive Article 74 – paragraph 1

Text proposed by the Commission

For the purposes of this Directive, the scope of the rules on hybrid mismatches under Article 61 of Directive 2016/xx/EU ***shall be limited to relations between group members and non-group members that are associated enterprises, as referred to in Article 56 of Directive 2016/xx/EU.***

Amendment

For the purposes of this Directive, the scope of the rules on hybrid mismatches ***and related arrangements applies as defined*** under Article 61 of Directive 2016/xx/EU.

Amendment 61

Proposal for a directive Article 76

Text proposed by the Commission

Article 76

Informing the European Parliament

The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, and of the revocation of that delegation of powers by the Council.

Amendment

Article 76

Informing the European Parliament

1. The European Parliament shall organise an interparliamentary conference to evaluate the CCCTB regime, taking into account the outcomes of the tax policy discussions held under the procedure of the European Semester. The European Parliament shall communicate its opinion and conclusions thereon by means of a resolution addressed to the Commission and the Council.

2. The European Parliament shall be informed of the adoption of delegated acts by the Commission, of any objection formulated to them, and of the revocation of that delegation of powers by the Council.

Amendment 62

Proposal for a directive Article 78 a (new)

Text proposed by the Commission

Amendment

Article 78a

Compensation mechanism

In order to compensate for sudden shocks in tax revenues across Member States arising from fiscal gains and losses directly and solely caused by the switch to the new regime introduced by this Directive, the Commission shall establish a dedicated compensation mechanism, operational from the entry into force of this Directive. Compensation shall be adjusted each year to take into account national or regional decisions taken prior to the entry into force of this Directive. The compensation mechanism shall be financed by the fiscal surplus from those Member States that experience gains in fiscal revenues, and shall be set for an initial period of seven years. After that period, the Commission shall assess the need for the compensation mechanism to continue operating, and accordingly decide to terminate or renew it once for another maximum period of two years.

Amendment 63

Proposal for a directive Article 79

Text proposed by the Commission

Amendment

Article 79

Article 79

Review

Implementation report and review

The Commission shall, five years after the entry into force of this Directive, *review* its application and report to the Council on the operation of this Directive. *The* report shall in particular include an analysis of the

The Commission shall, five years after the entry into force of this Directive, *assess* its application and report to the *European Parliament and the* Council on the operation of this Directive. *That*

impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States.

implementation report shall in particular include an analysis of the impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States. ***In drawing the conclusions of such an implementation report or in the context of the next multi-annual financial framework, the Commission shall propose the terms and conditions to allocate a part of the fiscal revenues generated from the common consolidated corporate tax base to the budget of the Union in order to proportionally reduce Member States contributions to the same budget.***

The Commission shall, 10 years after the entry into force of this Directive, review its application and report to the European Parliament and the Council on the operation of this Directive.

Amendment 64

Proposal for a directive

Article 80 – paragraph 1 – subparagraph 1

Text proposed by the Commission

Member States shall adopt and publish, by **31st** December **2020** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment

Member States shall adopt and publish, by **31** December **2019** at the latest, the laws, regulations and administrative provisions necessary to comply with this Directive. They shall forthwith communicate to the Commission the text of those provisions.

Amendment 65

Proposal for a directive

Article 80 – paragraph 1 – subparagraph 2

Text proposed by the Commission

They shall apply those provisions from ***Ist*** January **2021**.

Amendment

They shall apply those provisions from ***I*** January **2020**.

EXPLANATORY STATEMENT

Introduction

In late 2016 the Commission put forward a major overhaul of the corporate taxation rules in a two-step approach, namely a proposal for the Common Corporate Tax Base (CCTB) and a proposal for the Common Consolidated Corporate Tax Base (CCCTB). At the same time, the Commission withdrew its 2011 CCCTB proposal blocked in the Council. The objective of this re-launched project is to strengthen the internal market by making it easier and cheaper for companies to operate cross-border in the EU, and also to counter practices of corporate aggressive tax planning and to increase corporate tax transparency in the EU.

While the CCTB provides for a single set of rules for calculation of the corporate tax base, the CCCTB introduces a consolidation element which would enable businesses to offset losses in one Member State against profits in another Member State.

The idea of harmonising corporate taxation systems in the EU is not new, it appears already in policy documents in early 1960s. In 1975 the Commission proposed Directive on the harmonisation of systems of company taxation and of withholding tax on dividends, which due to the lack of progress in the Council was eventually withdrawn in 1990. Instead, the Commission issued Guidelines for Company Taxation. In 2001 the Commission published a study on Company taxation in the internal market; however, it was not until 2011 that the Commission proposed the CCCTB.

The European Parliament expressed its support to the CCCTB project on numerous occasions. In 2008 it welcomed the Commission's intention to launch the CCCTB and in 2012 it adopted a report of rapporteur Ms Marianne Thyssen where it called for the CCCTB to be applied as soon as possible and to as many companies as possible. In 2015 in its resolution on tax rulings and other measures similar in nature or effect (TAXE 1) the Parliament called for establishment of a mandatory CCCTB and repeated its calls in its resolution in 2016 (TAXE 2).

Context

A fair corporate taxation moved to the forefront of the international agenda against the backdrop of the global financial crisis and numerous revelations of financial scandals such as *Luxleaks* and *Panama Papers*. Fight against tax avoidance resulted in adoption of the OECD initiative on Base Erosion and Profit Shifting (BEPS). In the EU, the BEPS recommendations were implemented i.a. via the anti-tax avoidance package (ATAD 1) adopted in mid-2016 and ATAD 2 on hybrid mismatches adopted earlier this year, as well as the exchange of information of tax rulings (“DAC4”) and country-by-country-reports (“DAC5”)

The CCCTB is an essential missing brick in the construction of the genuine internal market and in fighting tax avoidance. The CCCTB brings about tax certainty, clear and stable regulatory framework and strong anti-tax avoidance rules including abolition of transfer pricing.

In the current international economic environment it is challenging for Member States to ensure that business income is taxed where the value is created. In particular large multinational companies are able to shift easily profits to Member States with lower corporate tax rates. To avoid detrimental effects on fiscal revenues of individual Member States the rapporteur considers that compensation in application of the CCCTB rules should be introduced. In addition, the rapporteur advocates for mechanisms of flexibility to fully

execute the directive, aligned on the same schedule with the CCTB Directive, and to monitor the life of the regime once in place in order to adjust to the political and economic moving scene.

Possible future international developments such as significant decrease of a corporate tax rate in the post Brexit UK or expected overhaul of the corporate taxation system in the US make it more urgent to adopt the CCCTB with a degree of flexibility incorporated in the system.

Moreover, existing corporate tax systems reflect economic realities of the last century where businesses were clearly linked to a local market. Globalisation, digitalisation of the world economy, e-commerce and new business models offer significant opportunities for businesses as well as for European citizens. However, they also represent challenges with regard to prevention of market distortion, tackling tax avoidance and tax evasion. Businesses active in the EU without a physical establishment have to be treated in the same way as businesses having a physical establishment in the EU. Modern tax systems of the 21st century must address specificities of the new globalised digital economy and this is why your rapporteur believes that the CCCTB should also encompass the concept of a digital presence and the capture of the commercial value of personal data.

CCCTB clearly offers major benefits for businesses by enabling them to follow common tax rules in all Member States and filing only one tax return for all the activities done in the EU by the principal tax authority. A single corporate taxation system in the EU would also avoid running parallel taxation systems by Member States and thus considerably decrease administrative costs.

Consolidation

The Commission in this proposal suggests that taxable profits should be shared between Member States where the company is active. The apportionment formula (which is the "Massachusetts Formula" used since the mid-20th century and was already proposed by the Commission in 2011), comprises of three equally weighted factors: sales, assets and labour. Your rapporteur proposes to add the fourth factor - personal data collection and exploitation for commercial purposes ("DATA") to ensure that CCCTB also applies to digital activities. These factors are more resilient to aggressive tax planning than transfer pricing. Apportionment formulas are being used by some federal states such as the US, Canada and Switzerland.

In addition, this system would allow Member States to keep the sovereignty right to set the tax rate and would tax the appropriate share of profits incurred by a company. The rapporteur insists that consolidation element is a condition sine qua non of the new taxation system and must be introduced at the same time as the common corporate tax rules.

Increased cooperation between national tax administrations is paramount to the success of the consolidation. The principal taxpayer authority will act as a 'one-stop-shop' for companies therefore they need to further develop their capacities building on recent experience with implementation of Council Directive 2011/16/EU as regards administrative cooperation in the field of taxation.

Your rapporteur believes that the CCCTB proposals represent an essential building block in completion of the internal market and have potential to enhance growth of European economy. A new framework would promote fairer and better integrated internal market and could contribute to achieving objectives of other flagship projects such as the Capital Markets Union, the Digital Single Market and the Investment Plan for Europe. The rapporteur believes

that the CCCTB addresses current challenges in the international taxation context and can serve as a powerful tool in the fight against aggressive tax planning.

MINORITY OPINION

pursuant to Rule 52a(4) of the Rules of Procedure

by EPP Members Esther de Lange, Brian Hayes, Gunnar Hökmark

1. Although taxation is a Member State competence, the fight against tax avoidance and tax evasion demonstrates the need to enhance cooperation at a European level. This proposal for a Common (Consolidated) Corporate Tax Base, however, will only have a minor impact on tackling tax avoidance and tax evasion, while the consequences on Member States' economies will be very severe, especially as the proposed consolidation key does not correctly represent the level of economic activity;
2. No sufficiently detailed country-by-country impact assessment has been conducted for either the CCTB or CCCTB, particularly in terms of the impact on Member States' tax revenue. The further changes suggested by this report call for a greater need for a new impact assessment with clear calculations on the consequences for each Member State;
3. Furthermore, aggressive tax planning by multinational companies is a global problem. The best way to tackle this problem is on an internationally agreed basis through the OECD Base Erosion and Profit Shifting (BEPS) initiative;
4. Seven national parliaments have issued reasoned opinions objecting to the CCTB and CCCTB proposals due to reasons of subsidiarity and tax sovereignty. These concerns have not at all been taken into account in this report.

4.10.2017

OPINION OF THE COMMITTEE ON LEGAL AFFAIRS

for the Committee on Economic and Monetary Affairs

on the proposal for a Council directive on a Common Consolidated Corporate Tax Base (CCCTB)
(COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS))

Rapporteur: Evelyn Regner

SHORT JUSTIFICATION

I. Introduction

This proposal, together with the proposal for a Council Directive on a Common Corporate Tax Base (2016/0337 (CNS)), is a re-launch of the 2011 Commission initiative on a Common Consolidated Corporate Tax Base for the EU. The purpose of the two proposals is to provide EU legislation in this area which is suited to an economic environment that has become more globalised, mobile and digital where Member States find it increasingly difficult to fight effectively against aggressive tax planning practices through unilateral action in order to protect their national tax bases from erosion and counter profit shifting.

II. An effective implementation of the consolidation

The implementation of a Common Consolidated Corporate Tax Base is essential in the fight to achieve justice between businesses within and outside of the EU from a taxation point of view. One of the main threats to tax justice is the widespread practice of profit shifting. Once implemented fully, the Common Consolidated Corporate Tax Base will make it possible to attribute income to where the value is created through a formula based on three equally weighted factors that are more resilient to aggressive tax planning practices than transfer pricing. In this way, loopholes between national tax systems, in particular transfer pricing, which accounts for around 70% of all profit shifting in the EU, could be eliminated and a major step towards a fair, efficient and transparent tax system could be taken. Consequently, the two proposals should be viewed as a package and should be implemented side by side in order to achieve more tax justice. The Common Consolidated Corporate Tax Base should be in place by the end of the year 2020.

In relation to the general fairness of our taxation systems, corporations must bear their share of the burden, and it is thus essential that new tax exemptions do not erode the tax base. Measures that incentivise private entities to invest in the real economy have to be supported, as the current investment gap in the EU is one of the key sources of its economic weaknesses. However, tax reliefs for companies need to be carefully constructed and implemented only where their positive impact on jobs and growth is evident and any risk of creating new loopholes in the taxation system is excluded. Therefore, promoting innovation and investment should be done through public subsidies rather than through tax exemptions.

In order to fight aggressive tax planning structures effectively as well as to avoid two parallel tax regimes, the Common Consolidated Corporate Tax Base should be mandatory for all companies with a turnover higher than 40 million euros. The thresholds for micro, small, medium and large undertakings have long been defined. The concept goes back to the 4th Company Law Directive of 1978. The need for the introduction of a new threshold has not been until now satisfactory justified by the Commission. Since SMEs do not have the resources to invest into letterbox company structures in order to shift profits artificially, they are being pushed into a competitive disadvantage vis-à-vis multinationals. In order to ensure a healthy single market it is essential to establish a fair, efficient, transparent and growth-friendly common corporate tax base system based on the principle that profits should be taxed in the country where they are generated.

Taking into account the digital change in the business environment, it is necessary to define the concept of a digital business establishment. Companies which raise revenues in a Member State without having a physical establishment in that Member State have to be treated the same as companies with a physical establishment. Therefore, the CCCTB has to apply for digital corporations as well.

III. Introduction of a minimum corporate tax rate in the proposal

A common and just minimum corporate tax rate is the only way to create equal and fair treatment between different subjects doing business in the EU, and within the larger community of tax subjects. Failing to put such a minimum rate in place will only lead to a situation where the race to the bottom on tax rates will be intensified. The existence of a Common Consolidated Corporate Tax Base will mean that Member States will no longer be able to compete through tax bases and therefore the economic incentives to compete via tax rates will increase. On average, corporate tax in the EU decreased from 35 % in the 1990s to 22.5 % today. To end the race to the bottom on corporate tax rates at EU level, a minimum corporate tax rate of 25% needs to be introduced.

AMENDMENTS

The Committee on Legal Affairs calls on the Committee on Economic and Monetary Affairs, as the committee responsible, to take into account the following amendments:

Amendment 1

Proposal for a directive

Recital 1

Text proposed by the Commission

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. Action to rectify those problems should therefore address both types of market deficiencies.

Amendment

(1) Companies which seek to do business across frontiers within the Union encounter serious obstacles and market distortions owing to the existence and interaction of 28 disparate corporate tax systems. Furthermore, tax planning structures have become ever-more **aggressive and** sophisticated over time, as they develop across various jurisdictions and effectively take advantage of the technicalities of a tax system or of mismatches between two or more tax systems for the purpose of reducing the tax liability of companies. Although those situations highlight shortcomings that are completely different in nature, they both create obstacles which impede the proper functioning of the internal market. ***Within a more globalised, mobile and digital economic framework***, action to rectify those problems should therefore address both types of market deficiencies ***through the alignment of the corporate tax base in the Union and the creation of a fairer and more coherent business environment in which companies can operate.***

Amendment 2

Proposal for a directive

Recital 2

Text proposed by the Commission

(2) To support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated. It is therefore necessary to

Amendment

(2) To support the proper functioning of the internal market, the corporate tax environment in the Union should be shaped in accordance with the principle that companies pay their fair share of tax in the jurisdiction(s) where their profits are generated. ***A corporate tax system which***

provide for mechanisms that *discourage* companies from taking advantage of mismatches amongst national tax systems in order to lower their tax liability. It is equally important to also stimulate growth and economic development in the internal market by facilitating cross-border trade and corporate investment. To this end, it is necessary to eliminate both double taxation and double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems. At the same time, companies need an easily workable tax and legal framework for developing their commercial activity and expanding it across borders in the Union. In that context, remaining cases of discrimination should also be removed.

treats the Union as a single market for the purpose of computing the corporate tax base of companies would increase the transparency of the activities of multinational enterprises and enable the public to assess their impact on the economy. It is therefore necessary to provide for mechanisms that *prevent* companies from taking advantage of mismatches amongst national tax systems in order to lower their tax liability. *Groups with establishments within the Union should support Union principles of good governance.* It is equally important to also stimulate growth and economic development in the internal market by facilitating cross-border trade and corporate investment. To this end, it is necessary to eliminate both double taxation and double non-taxation risks in the Union through eradicating disparities in the interaction of national corporate tax systems. At the same time, companies need an easily workable tax and legal framework for developing their commercial activity and expanding it across borders in the Union. In that context, remaining cases of discrimination should also be removed

Amendment 3

Proposal for a directive Recital 3

Text proposed by the Commission

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)¹, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive

Amendment

(3) As pointed out in the proposal of 16 March 2011 for a Council Directive on a Common Consolidated Corporate Tax Base (CCCTB)¹, a corporate tax system which treats the Union as a single market for the purpose of computing the corporate tax base of companies would facilitate cross-border activity for companies resident in the Union and promote the objective of making it a more competitive

location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address, on an equal footing, both the aspect of business facilitation and the initiative's function in countering tax avoidance. Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.

¹ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Amendment 4

Proposal for a directive Recital 4

Text proposed by the Commission

(4) Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is necessary to divide the ambitious CCCTB initiative into two separate proposals. At a first stage, rules on a common corporate tax base should be agreed, before addressing, at a second stage, the issue of consolidation.

location for investment internationally. The proposal of 2011 for a CCCTB focussed on the objective of facilitating the expansion of commercial activity for businesses within the Union. In addition to that objective, it should also be taken into account that a CCCTB can be highly effective in improving the functioning of the internal market through countering tax avoidance schemes. In this light, the initiative for a CCCTB should be re-launched in order to address, on an equal footing, both the aspect of business facilitation and the initiative's function in countering tax avoidance. ***Once implemented in all Member States, the CCCTB would ensure that taxes are paid where profits arise.*** Such an approach would best serve the aim of eradicating distortions in the functioning of the internal market.

¹ Proposal for a Council Directive COM (2011) 121 final/2 of 3.10.2011 on a Common Consolidated Corporate Tax Base.

Amendment

(4) Considering the need to act swiftly in order to ensure a proper functioning of the internal market by making it, on the one hand, friendlier to trade and investment and, on the other hand, more resilient to tax avoidance schemes, it is necessary to divide the ambitious CCCTB initiative into two separate proposals. At a first stage, rules on a common corporate tax base should be agreed, before addressing, at a second stage, the issue of consolidation. ***However, implementing the CCTB***

without consolidation would not address the problem of profit shifting. Therefore, it is essential that consolidation is applied in all Member States as from 1 January 2021.

Amendment 5

Proposal for a directive

Recital 5

Text proposed by the Commission

(5) *Many aggressive tax planning structures tend to feature in a cross-border context, which implies that the participating groups of companies possess a minimum of resources. On this premise, for reasons of proportionality, the rules on a common base should be mandatory only for groups of companies of a substantial size. For that purpose, a size related threshold should be fixed on the basis of the total consolidated revenue of a group which files consolidated financial statements.* In addition, in order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB tax base should also be available, as an option, to those groups that fall short of the size related threshold.

Amendment

(5) *In order to fight aggressive tax planning structures effectively as well as to avoid two parallel tax regimes, the rules on a common base should be mandatory for all companies except SMEs. The thresholds for micro, small, medium and large undertakings are defined by Fourth Council Directive 78/660/EEC (the 4th Company Law Directive).^{1a} Since SMEs do not have the resources to invest in letterbox company structures in order to shift profits artificially, they are at a competitive disadvantage vis-à-vis multinationals. In order to ensure a healthy internal market, it is essential to establish a fair, efficient, transparent and growth-friendly common corporate tax base system based on the principle that profits are taxed in the country where they are generated.* In addition, to ensure coherence between the two steps of the CCCTB initiative, the rules on a common base should be mandatory for companies which would be considered as a group should the full initiative materialise. In order to better serve the aim of facilitating trade and investment in the internal market, the rules on a CCCTB should also be available, as an option, to those groups that fall short of the size related threshold.

^{1a} *Fourth Council Directive 78/660/EEC of 25 July 1978 based on Article 54(3)(g)*

of the Treaty on the annual accounts of certain types of companies (OJ L 222, 14.8.1978).

Amendment 6

Proposal for a directive Recital 5 a (new)

Text proposed by the Commission

Amendment

(5a) Taking into account the digital change in the business environment, it is necessary to define the concept of a digital business establishment. Companies that generate revenues in a Member State without having a physical establishment in that Member State should be treated in the same way as companies having a physical establishment. Therefore, the CCCTB should also apply to digital businesses.

Amendment 7

Proposal for a directive Recital 10

Text proposed by the Commission

Amendment

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To

(10) The formula apportionment for the consolidated tax base should comprise three equally weighted factors, namely labour, assets and sales by destination. Those equally weighted factors should reflect a balanced approach to distributing taxable profits amongst the relevant Member States and should ensure that profits are taxed where they are actually earned, ***including in the case of activities in the digital economy sector which do not necessarily require a fixed establishment in a Member State in order to carry on an activity there***. Labour and assets should therefore be allocated to the Member State where the labour is performed or the assets are located, and would thereby give

account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation.

appropriate weight to the interests of the Member State of origin, whilst sales should be allocated to the Member State of destination of the goods or services. To account for differences in the levels of wages across the Union and thus allow for a fair distribution of the consolidated tax base, the labour factor should comprise both payroll and the number of employees (i.e. each item counting for half). The asset factor, on the other hand, should comprise all fixed tangible assets, but not intangible and financial assets because of their mobile nature and the resulting risk that the rules of this Directive could be circumvented. Where, due to exceptional circumstances, the outcome of the apportionment does not fairly represent the extent of business activity, a safeguard clause should provide for an alternative method of income allocation. *Nevertheless, the three equally weighted factors are more resilient to aggressive tax planning practices than the widespread transfer pricing methods for allocating profit currently in use. As a result, loopholes between national tax systems, in particular in respect of transfer pricing, which accounts for approximately 70% of all profit shifting in the Union, could be eliminated and a major step taken towards a fair, efficient and transparent tax system.*

Amendment 8

Proposal for a directive Recital 11 a (new)

Text proposed by the Commission

Amendment

(11a) To end the race to the bottom on corporate tax rates at Union level, a minimum corporate tax rate in the Union is required. On average, corporate tax rates in the Union decreased from 35% in the 1990s to 22,5% at present. By adopting the CCCTB, Member States will

no longer be able to compete through further decreases in their corporate tax rates.

Amendment 9

Proposal for a directive

Article 1 – paragraph 2

Text proposed by the Commission

2. A company that applies the rules of this Directive *shall cease to* be subject to the national corporate tax law *in respect of all matters regulated by this Directive*, unless otherwise stated.

Amendment

2. A company that applies the rules of this Directive *shall remain* subject to the national corporate tax law. *In the event of a conflict between this Directive and the national corporate tax law, the latter shall take precedence*, unless otherwise stated.

Amendment 10

Proposal for a directive

Article 2 – paragraph 1 – introductory wording

Text proposed by the Commission

(1) The rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent establishments in other Member States, where the company meets all of the following conditions:

Amendment

(1) The rules of this Directive shall apply to a company that is established under the laws of a Member State, including its permanent *and digital business* establishments in other Member States, where the company meets all of the following conditions:

Amendment 11

Proposal for a directive

Article 2 – paragraph 1 – point c

Text proposed by the Commission

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR **750 000 000** during the

Amendment

(c) it belongs to a consolidated group for financial accounting purposes with a total consolidated group revenue that exceeded EUR **40 000 000** during the

financial year preceding the relevant financial year;

financial year preceding the relevant financial year;

Amendment 12

Proposal for a directive

Article 2 – paragraph 2– subparagraph 1

Text proposed by the Commission

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member States where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Amendment

This Directive shall also apply to a company that is established under the laws of a third country in respect of its permanent establishments situated in one or more Member State, ***and in relation to revenues accrued in one or more Member States***, where the company meets the conditions laid down in points (b) to (d) of paragraph 1.

Amendment 13

Proposal for a directive

Article 2 – paragraph 2 a (new)

Text proposed by the Commission

Amendment

2a. This Directive shall also apply to businesses established under the laws of a third country in respect of their digital business establishments that are specifically directed towards consumers or businesses in a Member State or that principally receive their revenue from activity in a Member State, where the business meets the conditions laid down in points (b) to (d) of paragraph 1. For the purpose of ascertaining whether a digital business establishment is specifically directed towards consumers or businesses in a Member State, the physical locations of the consumers or users and suppliers of the goods and services provided shall be taken into account, in accordance with the OECD's BEPS Action 1. If those cannot be ascertained, regard shall be had

to whether the digital business establishment is conducting its business under the top level domain of a Member State or of the Union or whether, in relation to mobile application-based businesses, the digital business establishment is distributing its application via a Member State-specific part of a mobile application distribution centre or whether the business is conducted under a domain which – for example as a result of the use of names of Member States, regions or towns – makes it clear that the digital business establishment is directed towards consumers or businesses in a Member State, or whether the business activity is subject to general terms and conditions applicable specifically to the Union or a Member State, or whether the web presence of the digital business establishment provides advertising space specifically aimed at consumers and businesses in a Member State.

Amendment 14

Proposal for a directive Article 3 – paragraph 1 – point 28 a (new)

Text proposed by the Commission

Amendment

(28a) ‘digital business establishment’ means - taking into account the findings from OECD BEPS Action 1 - an establishment which is specifically directed towards consumers or businesses in a Member State, with due regard to the physical locations of the consumers or users and of the suppliers of the goods and services provided. If those cannot be ascertained, regard shall be had to whether the establishment is conducting its business under the top level domain of the Member State or of the Union or, in relation to mobile-application-based businesses, is distributing its application via the Member State-specific part of a

mobile application distribution centre or whether the business is conducted under a domain which – for example as a result of the use of names of Member States, regions or towns – makes it clear that the establishment is directed towards consumers or businesses in a Member State, or the business activity is subject to General Terms and Conditions applicable specifically for the European Union or a Member State, or the web presence of the business offers advertising space specifically aimed at consumers and businesses in a Member State.

Amendment 15

**Proposal for a directive
Article 3 – paragraph 1 – point 28 b (new)**

Text proposed by the Commission

Amendment

(28b) ‘an effective corporate tax rate’ means corporate tax paid in relation to earnings and profits as set out in the financial statements of a company.

Amendment 16

**Proposal for a directive
Article 6 – paragraph 1 – point d a (new)**

Text proposed by the Commission

Amendment

(da) all its digital business establishments.

Amendment 17

**Proposal for a directive
Article 73 – paragraph 1**

Text proposed by the Commission

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments that are situated, in a third country.

Amendment

For the purposes of this Directive, the scope of controlled foreign company legislation under Article 59 of Directive 2016/xx/EU shall be limited to relations between group members and entities that are resident for tax purposes, or permanent establishments ***or digital business establishments*** that are situated, in a third country.

Amendment 18

**Proposal for a directive
Article 79 – paragraph 1**

Text proposed by the Commission

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council on the operation of this Directive. The report shall in particular include an analysis of the impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States.

Amendment

The Commission shall, five years after the entry into force of this Directive, review its application and report to the Council ***and to the European Parliament*** on the operation of this Directive. The report shall in particular include an analysis of the impact of the mechanism set up in Chapter VIII of this Directive on the apportionment of the tax bases between the Member States.

PROCEDURE – COMMITTEE ASKED FOR OPINION

Title	Common Consolidated Corporate Tax Base (CCCTB)
References	COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS)
Committee responsible Date announced in plenary	ECON 24.11.2016
Opinion by Date announced in plenary	JURI 24.11.2016
Rapporteur Date appointed	Evelyn Regner 28.11.2016
Discussed in committee	3.5.2017
Date adopted	7.9.2017
Result of final vote	+: 13 –: 8 0: 0
Members present for the final vote	Max Andersson, Joëlle Bergeron, Marie-Christine Boutonnet, Jean-Marie Cavada, Kostas Chrysogonos, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sylvia-Yvonne Kaufmann, Gilles Lebreton, António Marinho e Pinto, Julia Reda, Evelyn Regner, Axel Voss, Tadeusz Zwiefka
Substitutes present for the final vote	Sergio Gaetano Cofferati, Luis de Grandes Pascual, Angel Dzhambazki, Rainer Wieland, Tiemo Wölken
Substitutes under Rule 200(2) present for the final vote	Gabriel Mato, Andrey Novakov

FINAL VOTE BY ROLL CALL IN COMMITTEE ASKED FOR OPINION

13	+
ALDE	Jean-Marie Cavada
EFDD	Joëlle Bergeron
ENF	Marie-Christine Boutonnet, Gilles Lebreton
GUE/NGL	Kostas Chrysogonos
VERTS/ALE	Max Andersson, Julia Reda
S&D	Sergio Gaetano Cofferati, Lidia Joanna Geringer de Oedenberg, Mary Honeyball, Sylvia-Yvonne Kaufmann, Evelyn Regner, Tiemo Wölken

8	-
ALDE	António Marinho e Pinto
ECR	Angel Dzhambazki
PPE	Gabriel Mato, Andrey Novakov, Axel Voss, Rainer Wieland, Tadeusz Zwiefka, Luis de Grandes Pascual

0	0

Key to symbols:

+ : in favour

- : against

0 : abstention

PROCEDURE – COMMITTEE RESPONSIBLE

Title	Common Consolidated Corporate Tax Base (CCCTB)		
References	COM(2016)0683 – C8-0471/2016 – 2016/0336(CNS)		
Date of consulting Parliament	21.11.2016		
Committee responsible Date announced in plenary	ECON 24.11.2016		
Committees asked for opinions Date announced in plenary	IMCO 24.11.2016	JURI 24.11.2016	
Not delivering opinions Date of decision	IMCO 5.12.2016		
Rapporteurs Date appointed	Alain Lamassoure 22.11.2016		
Discussed in committee	30.8.2017	10.10.2017	6.11.2017
Date adopted	21.2.2018		
Result of final vote	+: –: 0:	38 11 5	
Members present for the final vote	Burkhard Balz, Hugues Bayet, Udo Bullmann, Thierry Cornillet, Esther de Lange, Markus Ferber, Jonás Fernández, Sven Giegold, Neena Gill, Roberto Gualtieri, Brian Hayes, Gunnar Hökmark, Danuta Maria Hübner, Cătălin Sorin Ivan, Petr Ježek, Wolf Klinz, Georgios Kyrtos, Werner Langen, Sander Loones, Olle Ludvigsson, Ivana Maletić, Gabriel Mato, Costas Mavrides, Bernard Monot, Stanisław Ożóg, Dariusz Rosati, Pirkko Ruohonen-Lerner, Anne Sander, Alfred Sant, Martin Schirdewan, Molly Scott Cato, Pedro Silva Pereira, Peter Simon, Kay Swinburne, Paul Tang, Ramon Tremosa i Balcells, Ernest Urtsun, Marco Valli, Miguel Viegas, Jakob von Weizsäcker, Marco Zanni		
Substitutes present for the final vote	Matt Carthy, Bas Eickhout, Ramón Jáuregui Atondo, Alain Lamassoure, Paloma López Bermejo, Thomas Mann, Luigi Morgano, Joachim Starbatty, Romana Tomc, Lieve Wierinck		
Substitutes under Rule 200(2) present for the final vote	Alberto Cirio, Alex Mayer, Laurențiu Rebegea		
Date tabled	1.3.2018		

FINAL VOTE BY ROLL CALL IN COMMITTEE RESPONSIBLE

38	+
ALDE	Thierry Cornillet, Petr Ježek, Wolf Klinz, Ramon Tremosa i Balcells, Lieve Wierinck
ECR	Pirkko Ruohonen-Lerner
PPE	Burkhard Balz, Alberto Cirio, Markus Ferber, Danuta Maria Hübner, Georgios Kyrtos, Alain Lamassoure, Werner Langen, Ivana Maletić, Thomas Mann, Gabriel Mato, Dariusz Rosati, Anne Sander, Romana Tomc, Esther de Lange
S&D	Hugues Bayet, Udo Bullmann, Jonás Fernández, Neena Gill, Roberto Gualtieri, Cătălin Sorin Ivan, Ramón Jáuregui Atondo, Olle Ludvigsson, Alex Mayer, Luigi Morgano, Pedro Silva Pereira, Peter Simon, Paul Tang, Jakob von Weizsäcker
Verts/ALE	Bas Eickhout, Sven Giegold, Molly Scott Cato, Ernest Urtasun

11	-
ECR	Sander Loones, Stanisław Ożóg, Joachim Starbatty, Kay Swinburne
ENF	Marco Zanni
GUE/NGL	Matt Carthy, Miguel Viegas
PPE	Brian Hayes, Gunnar Hökmark
S&D	Costas Mavrides, Alfred Sant

5	0
EFDD	Marco Valli
ENF	Bernard Monot, Laurențiu Rebeca
GUE/NGL	Paloma López Bermejo, Martin Schirdewan

	Corrections to vote
+	
-	Esther de Lange, Laurențiu Rebeca
0	

Key to symbols:

+ : in favour
- : against
0 : abstention